

CLAIM OF KATHERINE M. OTSUBO

[No. 146-35-5895. Decided July 16, 1954]

FINDINGS OF FACT

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REASONS FOR DECISION

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Claimant's request for leave to amend, made subsequent to the bar date, presents matter for original determination. As appears from the findings of fact, claimant does not seek to add new items to her claim or to introduce any new subject matter. Her "cause of action" remains the same and her request is solely for the purpose of increasing the respective amounts of loss originally alleged for certain of the items included in her claim and, in consequence, the total amount claimed. In other words, to analogize to the practices of lawsuits (cf. *Bemis Bros. Bag Co. v. United States*, 289 U. S. 28, 34), she merely seeks to increase her *ad damnum*. That such an amendment is permissible notwithstanding the limitation provision of Section 2 (a) of the Statute is, we believe, clear from authorities. See, e. g., *Devlin v. United States*, 12 C. Cls. 266; *Barrow, Porter & Co. v. The United States et al.*, 30 C. Cls. 54; *Schewson v. United States*, 31 C. Cls 192, 194. As appears therefrom, limitation offers no bar to an amendment which merely increases the *ad damnum* and "the amount claimed in the way of values or damages is subject to amendment, in the discretion of the court, even against the statute of limitation." *Idem*. This being the case, and the "jurisdiction" conferred by the Statute being "to determine according to law," claimant's request to amend may properly be allowed and the total amount of her claim properly increased to \$15,000. It accordingly follows that claimant is entitled to receive the full amount of her loss as established by the evidence, namely, \$13,494.97.